



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/083,278	05/22/1998	YOJI FUJIWARA	041-2013	3784

22429 7590 03/27/2002
LOWE HAUPTMAN GOPSTEIN
GILMAN AND BERNER LLP
SUITE 310
1700 DIAGONAL ROAD
ALEXANDRIA, VA 22314

EXAMINER

ZIMMERMAN, BRIAN A

ART UNIT PAPER NUMBER

2635

DATE MAILED: 03/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Handwritten signature

261

Office Action Summary	Application No. 09/083,278	Applicant(s) FUJIWARA	
	Examiner Brian Zimmerman	Art Unit 2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Status of Application

In response to the applicant's amendment entered in response to the request filed on 12/27/01. The examiner has considered the new presentation of claims and applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 2-24 are unpatentable for the reasons set forth in this office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections

1. Claims 2,4-6,11,12,17,19,20,21,23, are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious in view of the WO publication to Motorola (WO 96/06417, hereafter referred to as the Motorola Publication).

The Motorola publication shows a pager, which receives codes. A first portion of a received code is compared to a stored address to **detect** if the message is directed to the particular paging receiver, page 4 lines 20+. A second portion of the codes is used to convey display information to the user (page 4 lines 34+), and a third portion of the codes is used to activate a sound generator to audibly generate recalled tones to be heard by the user for presenting an audible composition to the user (page 4 lines 35+).

It remains the examiner's position that the Motorola Publication does generate a series of tones where at least one tone has a frequency that is at least a portion of the chromatic scale. The chromatic scale is a series of notes or tones that can be used to generate or write an audible composition. It remains the examiner's position that the Motorola Publication would in fact generate at least one tone that would exist on the Chromatic Scale.

In the alternative, it is well known that the chromatic scale is a group of notes that can be used to create music or an audible composition much like the various forms of the English Language. Similarly, it is clear that a musical or audible composition for alerting would have been obvious in view of the Motorola Publication regardless of the exact notes or the exact manner in which to express or "write" those notes. Therefore, it would have been obvious to use musical notes from different scales in the audible generated composition since such would have been common techniques to use different notes to generate a composition.

2. Claims 2-24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious as being clearly anticipated by Kahn (5777997).

Kahn shows a radio receiver that receives a digital signal with codes. The receiver displays information based upon receipt of some of the codes, and generates audio information based upon receipt of some of the codes as claimed.

It remains the examiner's position that Kahn does generate a series of tones where at least one tone has a frequency that is at least a portion of the chromatic scale. The chromatic scale is a series of notes or tones that can be used to generate or write an audible composition. It remains the examiner's position that Kahn would in fact generate at least one tone that would exist on the Chromatic Scale.

In the alternative, it is well known that the chromatic scale is a group of notes that can be used to create music or an audible composition much like the various forms of the English Language. Similarly, it is clear the a musical or audible composition for alerting would have been obvious in view of Kahn regardless of the exact notes or the exact manner in which to express or "write" those notes. Therefore, it would have been obvious to use musical notes from different scales in the audible generated composition since such would have been common techniques to use different notes to generate a composition.

3. Claim 14,15,24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the WO publication to Motorola in view of Wong (5394140).

Motorola, as discussed above in conjunction with claims 1,4,11; shows pager for displaying and audibly generating tones for each message. Motorola does not expressly show an input means on the pager for assigning tonal compositions to be played in response to specific composition codes.

In an analogous art, Wong shows a pager, which generates audible messages in response to received message codes that are interpreted in view of stored

corresponding codes. See abstract. This permits the user to have some creative control over how the audible composition is presented. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used an input means on the pager in order to permit the user to creatively control the audible output of an composition discussed in the Motorola document.

4. Claims 3,7,13,16,18,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motorola and Wong as applied to claims 1,4,11,14 above, and further in view of Fisch (4873520).

In an analogous art, Fisch shows voice message pager. The pager of Fisch uses voice as the audible composition, in order to convey addition information to the user upon retrieval or playing of the message. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used voice as the audible composition in the above discusses system in order to convey additional information regarding the message.

5. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Motorola publication as applied to claim 4 above, and further in view of Kawashima (5332994).

In an analogous art, Kawashima shows audible message pager. The pager of Kawashima uses the audible composition to convey addition information to the user. Kawashima uses a timer 12 to limit the time interval that the selected tone is generated;

this provides protection to the power supply in that the audible generator does not drain the battery. It is also noted that stop commands are verily common in POCSAG systems. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used a timer to limit the audible composition in the above discusses system in order to prevent excessive battery drain.

Response to Arguments

Applicant's arguments filed 10/29/01 have been fully considered but they are not persuasive.

The applicant argues that the Motorola Reference does not provide a tone in the chromatic scale.

It remains the examiner's position that the Motorola Publication and Kahn both generate a series of tones where at least one tone has a frequency that is at least a portion of the chromatic scale. The chromatic scale is a series of notes or tones that can be used to generate or write an audible composition. It remains the examiner's position that the Motorola Publication and Kahn would in fact generate at least one tone that would exist on the Chromatic Scale.

In the alternative, it is well known that the chromatic scale is a group of notes that can be used to create music or an audible composition much like the various forms of the English Language. Similarly, it is clear the a musical or audible composition for alerting would have been obvious in view of the Motorola Publication and Kahn regardless of the exact notes or the exact manner in which to express or "write" those

notes. Therefore, it would have been obvious to use musical notes from different scales in the audible generated composition since such would have been common techniques to use different notes to generate a composition.

The applicant argues (regarding claims 4-6) that the Motorola Reference does not include a third portion of the data used for generating tones as determined by the first portion of data.

The Motorola publication shows a pager, which receives codes. A first portion of a received code is compared to a stored address to **detect** if the message is directed to the particular paging receiver, page 4 lines 20+. A third portion of the code is used to activate a sound generator to audibly generate recalled tones to be heard by the user for presenting an audible composition to the user (page 4 lines 35+) this audible composition is only generated if the message is destined for this particular pager and therefore generates the tones based upon the first portion of data.

The applicant argues (regarding claim 11) that the Motorola reference does not show comparing the received data with stored data to generate a composition.

The Motorola Publication does this in two ways. First the received address (first portion) is compared to the stored address. A match is required in order for the pager to generate a composition. Secondly, since the memory 212 outputs a signal to audio generator 220 in order to produce an audible composition, that portion of the memory

inherently needs to be addressed by a comparison-look up step in the operation of the controller 210.

Regarding claim 14, the applicant argues that the Wong reference does not show a registration means within the receiver that is adapted to store a relationship between the demodulated data and sound combinations and patterns that include tones to form a melody.

Wong is not cited for teaching digital data combinations forming tones that are used to form a melody. Not only does Wong teach such a feature, see discussion above, such would be inherent in the digital tone composition of the Motorola Publication, see page 2 lines 32+.

Regarding claims 3,7,13 and 16, the applicant argues that Fisch does not show a coded signal that activates stored tones in the form of a melody or the like. Not only does Fisch show such a feature, see rejection above; also, the Motorola publication uses received codes to form a melody by audibly producing tones corresponding to the received codes. See page 2 lines 32+.

Regarding claims 8-10, the applicant argues that Kawashima does not use a timer to maintain the length of a tone before moving on to the next tone. Such a limitation is not expressly set forth in the claims, however this limitation is inherent in the

Art Unit: 2635

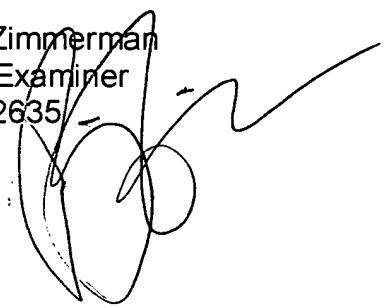
Motorola Publication in that the playing of a melody/composition using received codes must maintain the length of a tone for a time period before moving on to the next tone.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A Zimmerman whose telephone number is 703-305-4796. The examiner can normally be reached on Off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Horabik can be reached on 703-305-4704. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Brian A Zimmerman
Primary Examiner
Art Unit 2635



BaZ
March 26, 2002